

REMARKS/ARGUMENTS

Claims 1, 3-12, 14-18, 20-30, and 32-54 are currently pending in the subject application and are presently under consideration. New claims 47-54 have been added. Support for these amendments may be found throughout the Specification (e.g., paragraph [0039]). No new matter is added.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

The courtesies extended to Applicants' representative by Examiner Nguyen and Supervisory Examiner Harper during the telephone interview held on January 14, 2009, are greatly appreciated. The reasons presented at the interview as warranting favorable action are incorporated in the remarks below and constitute Applicants' record of the interview.

Applicants also appreciate that the Office Action indicates that claims 4, 21, 33, and 39 are allowed.

Claim Rejections – 35 USC § 103

Claims 1, 3, 5-12, 14-18, 20, 22-30, 32, 34-38, and 40-46 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Jung (US 6,049,716) in view of Lee (US 6,865,389). Reversal of this rejection is respectfully requested for at least the following reasons. The cited art, either alone or in combination, do not teach or suggest all aspects recited in the subject claims.

The claimed subject matter generally relates to mechanisms for controlling data transmission parameters for wireless communications channels based upon prevailing transmission characteristics of the channels. To this end, independent claims 1, 10, 15, 18, 27, 34, and 41 recite similar features namely: *mobile station being configured to modify a transmission parameter in response to the network directing the mobile station to enter or leave soft handoff and the frame size is set to a first size and wherein if the mobile station is directed to leave soft handoff, the frame size is set to a second size*. Importantly, the decision to enter or leave soft handoff is not dependent on the frame size of transmission from the mobile station. Indeed, unknown and unpredictable conditions precipitate a mobile station entering soft handoff mode. See Specification paragraphs [0037] to [0040].

Jung is directed to a method for adding and removing base stations in an active set of a mobile station. Lee is directed to a virtual soft handover process for a mobile station where the

decision to enter virtual soft handover is dependent upon a threshold data transmission rate. *See* Lee at column 4.

The combination of Jung and Lee describe a handover process *whereby the size of the data transmission determines* whether the mobile station is in virtual soft handover or not. *See* Lee column 4 lines 52-67. It is clear that the combination of the cited references directs that the size of the data transmission frames (as measured by the mobile station) determines whether the mobile station enters a virtual soft handover mode. By contrast, the recited independent claims are not directed to determining soft handoff based upon the size of the data transmission. Rather, the recited independent claims are directed to a method for selecting the frame size *as a result of* a decision to configure the mobile station to enter or leave soft handoff. Applicant submits that neither Jung nor Lee describes (i) mobile station being configured to modify a transmission parameter in response to the network directing the mobile station to enter or leave soft handoff and (ii) the frame size is set to a first size and wherein if the mobile station is directed to leave soft handoff, the frame size is set to a second size as recited in claims 1, 10, 15, 18, 27, 34, and 41.

In view of at least the foregoing, it is readily apparent that none of the cited documents, alone or in combination, teach or suggest all aspects recited in the subject claims. Hence, withdrawal of this rejection is requested with respect to independent claims 1, 10, 15, 18, 27, 34, and 41.

Applicants thus submit that claims 1, 4, 10, 15, 18, 21, 27, 33, 34, 39, and 41 define patentable subject matter. Claims 3, 5-9, 11-12, 14, 16-17, 20, 22-26, 28-30, 32, 35-38, 40, and 42-52 depend from claims 1, 10, 18, 27, 34, and 41, respectively, and therefore, also define patentable subject matter, as well as for the additional features recited therein.

New Claims 47-54

Applicants have added new claims 47-54 to recite subject matter to which they are entitled. As noted above, these new claims are fully supported throughout the Specification.

Additionally, claims 47-54 are allowable, as there is no combination of the cited references that discloses or suggests the subject matter recited by these claims.

In particular, claims 47-52 depend from independent claim 27, which is believed to be patentable over any combination of the cited references, as discussed above. Thus, for at least

the same reasons, claims 47-52 are also non-obvious and patentably distinguishable over the cited prior art references.

Further, claims 47-52 recite subject matter not disclosed or suggested by any combination of the cited references. For example, there is no combination of the cited references that discloses or suggests a method wherein if the mobile station is entering soft handoff, configuring the mobile station to transmit at a first data rate, and if the mobile station is leaving soft handoff, configuring the mobile station to transmit at a second data rate, and wherein the first data rate is five times less than the second data rate, as recited in claims 50 and 52, respectively.

Claims 47-49, 51, and 53-54 also recite subject matter not disclosed or suggested by any combination of the cited references.

Therefore, Applicants respectfully request that the Examiner allow claims 47-54.

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CONCLUSION

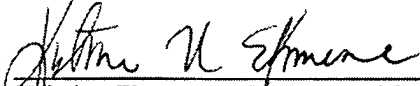
In light of the amendments contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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